

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SHARON ROBERTSON

PLAINTIFF,

v.

**WALMART STORES TEXAS, LLC.,
AND WALMART STORES, INC., D/B/A
WALMART STORE 1279**

DEFENDANTS.

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CIVIL ACTION NO. 4:21-cv-00540

**DEFENDANTS' WALMART STORES TEXAS, LLC AND
WALMART STORES, INC. D/B/A WALMART STORE 1279
NOTICE OF REMOVAL OF ACTION**

COME NOW Defendants, Walmart Stores Texas, LLC and Walmart Stores, Inc., d/b/a Walmart Store 1279 ("Defendants" and/or "Walmart"), and file this Notice of Removal and state:

I. BACKGROUND FACTS

1. On January 4, 2021, Plaintiff, Sharon Robertson ("Plaintiff"), filed an Original Petition against Walmart Stores Texas, LLC and Walmart Stores, Inc., d/b/a Walmart Store 1279 in the lawsuit styled: *Sharon Robertson v. Walmart Stores Texas, LLC and Walmart Stores, Inc., d/b/a Walmart Store 1279*, Cause No. 2021-00230, pending in the 133rd Judicial District Court of Harris County, Texas. Plaintiff alleged causes of action against Walmart for gender discrimination, sexual harassment, hostile work environment, retaliation and constructive discharge, in violation of the Texas Commission on Human Rights Act ("TCHRA"), as codified

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in the Texas Labor Code, Section 21.001, et seq. *See Plaintiff's Original Petition, App. 3.* Plaintiff alleged damages against Walmart over \$250,000.00 but no more than \$1,000,000.00 for actual damages, special damages, lost benefits, pre-judgment interest, post-judgment interest, and attorney fees. *See Plaintiff's Original Petition, App. 4 and 10.*

2. At the time of the filing of the state court action and at the time of the filing of the Removal of Action, Plaintiff was and is a citizen of the State of Texas. Plaintiff resides in Harris County, Texas.

3. Walmart Stores, Inc., whose name was changed to Walmart Inc. effective February 1, 2018, was, at the time of the filing of this action, and still is, a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

4. Wal-Mart Stores Texas, LLC was, at the time of the filing of this action, and still is, a limited liability corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

5. The sole member of Wal-Mart Stores Texas, LLC is not a citizen of the state of Texas. Wal-Mart Stores Texas, LLC¹ is wholly owned by its sole member, Wal-Mart Real Estate Business Trust. Wal-Mart Real Estate Business Trust² was, at the time of the filing of this action, and still is, a Delaware real estate business trust, having its principal place of business in the State of Arkansas.

6. The sole unit holder of Wal-Mart Real Estate Business Trust is Wal-Mart

¹ As shown by the corporate structure set forth herein, Wal-Mart Stores Texas, LLC is an indirectly, wholly-owned subsidiary of Walmart Inc.

² As shown by the corporate structure set forth herein, Wal-Mart Real Estate Business Trust is an indirectly, wholly-owned subsidiary of Walmart Inc.

Property Co., which was, at the time of the filing of this action, and still is, a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas. Wal-Mart Property Co. is a wholly-owned subsidiary of Wal-Mart Stores East, LP. Wal-Mart Stores East, LP was, at the time of the filing of this action, and still is, a limited partnership organized under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

7. Wal-Mart Stores East, LP's general partner is WSE Management, LLC. WSE Management, LLC was, at the time of the filing of this action, and still is, a limited liability corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

8. Wal-Mart Stores East, LP's limited partner is WSE Investment LLC. WSE Investment LLC was, at the time of the filing of this action, and still is, a limited liability corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

9. Both WSE Management, LLC and WSE Investment LLC are wholly owned by their sole member, Wal-Mart Stores East, LLC. Wal-Mart Stores East, LLC was, at the time of the filing of this action, and still is, a limited liability corporation incorporated under the laws of the State of Arkansas, having its principal place of business in the State of Arkansas. The sole member and parent company of Wal-Mart Stores East, LLC is Walmart Inc. Walmart Inc. was, at the time of the filing of this action, and still is, a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arkansas.

10. As set forth above, Wal-Mart Stores Texas, LLC, its sole member, and the above

identified affiliated entities, are not citizens of the State of Texas.

II. REMOVAL BASED ON DIVERSITY

11. This is a civil action of which the Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs (as demonstrated in Plaintiff's Original Petition), and is between citizens of different states. (*See Plaintiff's Original Petition, App. 4*).

III. AMOUNT IN CONTROVERSY REQUIREMENT SATISFIED

12. The amount in controversy requirement in this matter is satisfied. According to her Original Petition, Plaintiff is alleging numerous claims against Defendants and seeks a variety of damages. Moreover, Section 4, Paragraph 4.1 of Plaintiff's Original Petition states that Plaintiff seeks monetary relief over \$250,000.00. *See Plaintiff's Original Petition, App. 4, Section 4, Paragraph 4.1*. Therefore, an amount in controversy in excess of \$75,000 is facially apparent from Plaintiff's Original Petition.

IV. TIMELINESS OF REMOVAL

13. Removal is timely under 28 U.S.C. § 1446(b) because less than thirty (30) days have passed since Plaintiff's Original Petition was served upon Walmart Stores Texas, LLC and Walmart Stores, Inc., d/b/a Walmart Store 1279. Specifically, Plaintiff's Original Petition was filed in the 133rd Judicial District Court in Harris County, Texas, on January 4, 2021. Plaintiff's Original Petition was served on Defendants on January 21, 2021.

V. ATTACHMENT OF STATE COURT PLEADINGS

14. Defendants have attached to the Appendix for this Notice of Removal all

pleadings that were filed in this case during the pendency of proceedings in state court.

VI. NOTICE OF REMOVAL GIVEN TO STATE COURT

15. This Notice of Removal is being filed with the 133rd Judicial District Court of Harris County, Texas, on the date of this filing with the United States District Court for the Southern District of Texas, Houston Division. A copy of the notice provided to the state court is attached to the Appendix for this Notice of Removal.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully requests that further proceedings in the state court action be discontinued and that Cause No. 2021-00230 pending in the 133rd Judicial District Court of Harris County, Texas, be removed to the United States District Court for the Southern District of Texas, Houston Division, and that this Court assume full jurisdiction over this action as provided by law.

Respectfully submitted,

s/ Nancy L. Waters
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served pursuant to the Federal Rules of Civil Procedure upon counsel for Plaintiff on this 19th day of February, 2021, as follows:

Diamond J. Hayes
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s/ Nancy L. Waters

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